IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 12TH JUNE 2007 / 22ND JYAISHTA 1929

WP(C).No. 12589 of 2007(W)

PETITIONERS:

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1. MANIKANDAN AUTOMOTIVES (P)LTD.,
   NATIONAL HIGHWAY, NEAR KUNDANOOR JUNCTION,
   MARADU P.O., COCHIN-682 304, REP. BY ITS
   MANAGING DIRECTOR S.SIVAKUMAR.

2. M/S.RAJASHREE MOTORS,
   NATIONAL HIGHWAY, NEAR KUNDANOOR JUNCTION,
   MARADU P.O., COCHIN-682 304, REP. BY ITS
   MANAGING DIRECTOR.

BY ADV. SRI.P.SANTHALINGAM
SRI.S.SHARAN

RESPONDENTS:

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1. STATE OF KERALA, REP.BY SECRETARY
   TO GOVT.LOCAL ADMINISTRATION DEPT.,
   THIRUVANANTHAPURAM.

2. THE DISTRICT COLLECTOR,
   ERNAKULAM.

3. THE DISTRICT SURVERY SUPERINTENDENT,
   COLLECTORATE, ERNAKULAM.

4. TALUK SURVEYOR, TALUK OFFICE,
   KANAYANOOR, ERNAKULAM.

5. THE VILLAGE OFFICER,
MARADU VILLAGE, KANAYANOOR TALUK.

6. MARADU GRAMA PANCHAYAT,
MARADU P.O., ERNAKULAM, REP. BY ITS SECRETARY.

R1 TO R5 BY GOVT. PLEADER SRI. K.J. MOHAMMED ANZAR.
R6 BY ADV. SRI.S.SHANAVAS KHAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

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WP.(C) No.12589 of 2007

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Dated this the 12th day of June, 2007

JUDGMENT

Case of the petitioners in brief is as follows:

They have purchased 1.13 Acres and 690 square links. Encumbrance certificate was taken. At no point of time Government have raised a contention that any portion of property has vested in the State. When the resurvey was conducted three old survey numbers were clubbed together and renumbered as resurvey No.130/1 of Maradu Village. It so happened that when resurvey sketch was drawn, the concerned officer has not taken into account the property involved in old survey No.1691/1 of Maradu Village. Petitioners submitted Ext.P9 application and no steps have been taken to measure the property or identify the property. A portion of the building where the petitioners are carrying on their business has been demolished. There was a direction of the Division Bench in O.P.14426 of 2002. This court passed the following direction:

> "As the fact of encroachment on the banks of canal resulting in water clogging alleged by the petitioner in the

> writ petition is admitted by the respondents in their counter affidavits, we deem it proper to direct the respondents 1 to 6 to make concerted efforts for identifying the encroachments/encroachers and to take appropriate stern action for the removal of the encroachments at the earliest, in accordance with law. We will appreciate if the appropriate action is taken by the respondents within six months from the date of production of a copy of this judgment."

A learned Single Judge has passed the following interim order on 13.4.2007 in this case.

> "There will be an interim direction to respondents 3 and 4 to get petitioner's case decided by the Survey Adalath, demarcate the boundaries and file a report in this court within two months. The petitioner is free to continue business in the premises for two months from now."

Petitioner had approached this court earlier resulting in Ext.P6 judgment. It is submitted by the learned Government Pleader and the learned counsel appearing for the Panchayat that the survey work is in progress and also that a portion of the building of the petitioners has already been demolished. Government Pleader submits that the survey

will be done in the presence of the petitioners.

In the light of the stand taken, the writ petition is disposed of directing respondents 3 to 5 to complete the survey work in respect of the property of the petitioners with notice to the petitioners also within a period of six weeks from the date of receipt of a copy of this judgment. The interim order allowing the petitioners to continue the business in the premises will continue till the survey is over. It is also made clear that I have not gone into the reliefs sought as prayer Nos. (c) and (d), which I feel should await the completion of the survey work.

(K.M. JOSEPH, JUDGE)

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